THE HON'BLE SRI JUSTICE
GODA RAGHURAM

W.P.No. 11928 of 1998

08-08-2007

Between:

G. Satyanarayana

Petitioner

And

Sramik Vidya Peeth (Under Ministry of
Human Resource Development, Govt. of India),
Kakinada represented by it's Director,
Datlavari Street, Gandhinagar, Kakinada.

Respondent.

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Oral Order:

The petitioner is aggrieved by the inaction of the respondent in failing to grant him the scale of pay applicable to the post of Chowkidar and to give him the Basic pay, Dearness Allowance and House Rent Allowances, as per rules.

The petitioner claims to have joined as Chowkidar in the respondent-institution pursuant to an appointment order dated

28-09-1994. The order dated 28-09-1994 of the respondent states that the petitioner having been selected for appointment as Chowkidar, is appointed on consolidated pay of Rs.1,000-00 per month, will be on probation for a period of one year from the date of joining service and that the scale of pay applicable would be fixed on satisfactory completion of the probation period.

By another order dated 08-08-1996 the petitioner was informed that his services as Chowkidar in the respondent-institution was confirmed with effect from 01-07-1996 and that the management has sanctioned an increment of Rs.250-00 per month, entitling him to a consolidated pay of Rs.1,250-00 per month.

According to the petitioner, in the salary, as per the pay slip of January, 1997, he was also paid vehicle allowance of Rs.25-00 in addition to the consolidated salary of Rs.1,250-00 per month. Provident Fund and School donation amounts were also deducted. On 01-10-1995 the petitioner represented to the respondent that he has been working as Chowkidar since 1994 and that his services should be regularized and granted a pay scale. Another representation was submitted on 10-05-1997 and yet another

on 20-05-1997. There being no response, the writ petition is filed

The respondent has filed a counter affidavit. It is stated that after completion of the extended period of

probation of the petitioner his salary was increased by Rs.250-00 per month with effect from
01-07-1996. It is also stated that the petitioner appointed as Chowkidar in the Sramika Vidya Peeth was retrenched by an order dated 15-03-2000 at which time he was drawing a salary of
Rs.2,062-00. According to the counter, the respondent-institution was dissolved and wound up voluntarily by 31-03-2000 and therefore the respondent-institution – Sramika Vidya Peeth is not in existence since its dissolution.

It is also averred that challenging his retrenchment with effect from 15-03-2000, the petitioner raised an industrial dispute by way of I.D.No. 19 of 2002 and the Industrial Tribunal by an award dated
15-12-2003 declined to direct reinstatement of the petitioner but passed an award granting him Rs.30,000-00 towards compensation. The said amount was paid and received by the petitioner on
02-07-2004. The petitioner however filed W.P.No. 19242 of 2004 against the award in I.D.No. 19 of 2002. The counter affidavit further states that after the dissolution of Sramik Vidya Peeth and the genesis of the new organization the Janasikshana Sansthan, the new institution has in its staffing pattern no post of a watchman/sweeper or scavenger. All these functions were entrusted to private contractor. In the

circumstances, the respondent disclaims any liability to determine the pay scale or pay the arrears on that account to the petitioner.

It requires to be noticed that in a vague and breezy affidavit the petitioner has failed to state the organizational structure of the respondent. The petitioner has not pleaded that the post of Chowkidar is a post borne on the cadre of service. The pleading do not disclose what is the scale of pay attached to the post of Chowkidar and even whether there is a sanctioned post of Chowkidar. Even if the petitioner were not aware of these facts, the petitioner had ample procedural tools to enable him to ascertain these facts from the respondent by administering interrogatories and thereafter pleading the facts to which there could have been a rational response by the respondent. There is a matching vagueness in the counter affidavit. Except stating that the new organization has dispensed with the categories of Watchman, Attender etc., the counter fails to plead as to what was the scale of pay attached to the post of Chowkidar.

In these factual circumstances and in particular since the Sramik Vidya Peeth has been wound up and the petitioner is also not in service either in the Sramik Vidya Peeth or in Janasikshana Sansthan, but has merely been paid a compensation of Rs.30,000-00 by the award of the Labour Court dated 15-12-2003 in I.D.No. 19 of 2002, no relief could be granted. The writ petition is accordingly

dismissed. No costs.

GODA RAGHURAM, J

Dated: 08-08-2007
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